

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

<b>In the Matter of the Accusation Against:</b>	)	
	)	
	)	
<b>JOHN M. PERIC, M.D.</b>	)	<b>Case No. 17-2010-210312</b>
	)	
<b>Physician's and Surgeon's</b>	)	
<b>Certificate No. A 79419</b>	)	
	)	
<b>Respondent</b>	)	
_____	)	


**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 8, 2014.

**IT IS SO ORDERED:** July 10, 2014.

**MEDICAL BOARD OF CALIFORNIA**

By:   
Dev Gnanadev, M.D., Chair  
Panel B

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 TAN N. TRAN  
Deputy Attorney General  
4 State Bar No. 197775  
300 So. Spring Street, Suite 1702  
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*Attorneys for Complainant*  
7

8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 17-2010-210312

11  
12 **John M. Peric, M.D.**  
13 **2701 W. Alameda, Suite 504**  
**Burbank, CA 91505**

OAH No. 2013090245

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

14 **Physician's and Surgeon's Certificate No. A**  
15 **79419**

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical  
22 Board of California. She brought this action solely in her official capacity and is represented in  
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Tan N. Tran,  
24 Deputy Attorney General.

25 2. Respondent John M. Peric, M.D. ("Respondent") is represented in this proceeding by  
26 attorney Nicholas D. Jurkowitz, whose address is: FENTON LAW GROUP, LLP, 1990 S.Bundy  
27 Drive, Suite 777, Los Angeles, CA 90025.  
28

3. On or about June 7, 2002, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 79419 to John M. Peric, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 17-2010-210312 and will expire on June 30, 2014, unless renewed.

## JURISDICTION

4. Accusation No. 17-2010-210312 was filed before the Medical Board of California (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 13, 2013. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 17-2010-210312 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 17-2010-210312. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent does not contest that at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation

No. 17-2010-210312, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 79419 to disciplinary action.

10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### CIRCUMSTANCES IN MITIGATION

11. Respondent has never been the subject of any disciplinary action. He is cooperative.

#### RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

#### CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 79419 issued to John Peric, M.D. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. During the first two years of probation, Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as listed in Schedule(s) II and III of the California Uniform Controlled Substances Act, except for Adderall and Testosterone, if indicated.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. If Respondent forms the medical opinion, after an appropriate prior examination and medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use

1 of marijuana.

2 2. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO  
3 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled  
4 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any  
5 recommendation or approval which enables a patient or patient's primary caregiver to possess or  
6 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health  
7 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and  
8 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;  
9 and 4) the indications and diagnosis for which the controlled substances were furnished.

10 Respondent shall keep these records in a separate file or ledger, in chronological order. All  
11 records and any inventories of controlled substances shall be available for immediate inspection  
12 and copying on the premises by the Board or its designee at all times during business hours and  
13 shall be retained for the entire term of probation.

14 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this  
15 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
16 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
17 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
18 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
19 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
20 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
21 completion of each course, the Board or its designee may administer an examination to test  
22 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65  
23 hours of CME of which 40 hours were in satisfaction of this condition.

24 4. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective  
25 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the  
26 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,  
27 University of California, San Diego School of Medicine (Program), approved in advance by the  
28 Board or its designee. Respondent shall provide the program with any information and documents

1 that the Program may deem pertinent. Respondent shall participate in and successfully complete  
2 the classroom component of the course not later than six (6) months after Respondent's initial  
3 enrollment. Respondent shall successfully complete any other component of the course within  
4 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense  
5 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
6 licensure.

7 A prescribing practices course taken after the acts that gave rise to the charges in the  
8 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
9 or its designee, be accepted towards the fulfillment of this condition if the course would have  
10 been approved by the Board or its designee had the course been taken after the effective date of  
11 this Decision.

12 Respondent shall submit a certification of successful completion to the Board or its  
13 designee not later than 15 calendar days after successfully completing the course, or not later than  
14 15 calendar days after the effective date of the Decision, whichever is later.

15 5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective  
16 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to  
17 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education  
18 Program, University of California, San Diego School of Medicine (Program), approved in  
19 advance by the Board or its designee. Respondent shall provide the program with any information  
20 and documents that the Program may deem pertinent. Respondent shall participate in and  
21 successfully complete the classroom component of the course not later than six (6) months after  
22 Respondent's initial enrollment. Respondent shall successfully complete any other component of  
23 the course within one (1) year of enrollment. The medical record keeping course shall be at  
24 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)  
25 requirements for renewal of licensure.

26 A medical record keeping course taken after the acts that gave rise to the charges in the  
27 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
28 or its designee, be accepted towards the fulfillment of this condition if the course would have

1 been approved by the Board or its designee had the course been taken after the effective date of  
2 this Decision.

3 Respondent shall submit a certification of successful completion to the Board or its  
4 designee not later than 15 calendar days after successfully completing the course, or not later than  
5 15 calendar days after the effective date of the Decision, whichever is later.

6 6. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
7 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
8 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.

9 Respondent shall participate in and successfully complete that program. Respondent shall  
10 provide any information and documents that the program may deem pertinent. Respondent shall  
11 successfully complete the classroom component of the program not later than six (6) months after  
12 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
13 time specified by the program, but no later than one (1) year after attending the classroom  
14 component. The professionalism program shall be at Respondent's expense and shall be in  
15 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

16 A professionalism program taken after the acts that gave rise to the charges in the  
17 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
18 or its designee, be accepted towards the fulfillment of this condition if the program would have  
19 been approved by the Board or its designee had the program been taken after the effective date of  
20 this Decision.

21 Respondent shall submit a certification of successful completion to the Board or its  
22 designee not later than 15 calendar days after successfully completing the program or not later  
23 than 15 calendar days after the effective date of the Decision, whichever is later.

24 7. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
25 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
26 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose  
27 licenses are valid and in good standing, and who are preferably American Board of Medical  
28 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal



1 relationship with Respondent, or other relationship that could reasonably be expected to  
2 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
3 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
4 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

5 The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
6 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
7 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
8 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
9 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
10 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
11 signed statement for approval by the Board or its designee.

12 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
13 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
14 make all records available for immediate inspection and copying on the premises by the monitor  
15 at all times during business hours and shall retain the records for the entire term of probation.

16 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
17 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
18 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
19 shall cease the practice of medicine until a monitor is approved to provide monitoring  
20 responsibility.

21 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
22 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
23 are within the standards of practice of medicine, and whether Respondent is practicing medicine  
24 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the  
25 quarterly written reports to the Board or its designee within 10 calendar days after the end of the  
26 preceding quarter.

27 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
28 such resignation or unavailability, submit to the Board or its designee, for prior approval, the

1 name and qualifications of a replacement monitor who will be assuming that responsibility within  
2 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
3 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
4 notification from the Board or its designee to cease the practice of medicine within three (3)  
5 calendar days after being so notified Respondent shall cease the practice of medicine until a  
6 replacement monitor is approved and assumes monitoring responsibility.

7 In lieu of a monitor, Respondent may participate in a professional enhancement program  
8 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the  
9 University of California, San Diego School of Medicine, that includes, at minimum, quarterly  
10 chart review, semi-annual practice assessment, and semi-annual review of professional growth  
11 and education. Respondent shall participate in the professional enhancement program at  
12 Respondent's expense during the term of probation.

#### 13 STANDARD CONDITIONS

14 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
15 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
16 Chief Executive Officer at every hospital where privileges or membership are extended to  
17 Respondent, at any other facility where Respondent engages in the practice of medicine,  
18 including all physician and locum tenens registries or other similar agencies, and to the Chief  
19 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
20 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
21 calendar days.

22 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

23 9. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is  
24 prohibited from supervising physician assistants.

25 10. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
26 governing the practice of medicine in California and remain in full compliance with any court  
27 ordered criminal probation, payments, and other orders.

28 11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations

1 under penalty of perjury on forms provided by the Board, stating whether there has been  
2 compliance with all the conditions of probation.

3 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
4 of the preceding quarter.

5 12. GENERAL PROBATION REQUIREMENTS.

6 Compliance with Probation Unit

7 Respondent shall comply with the Board's probation unit and all terms and conditions of  
8 this Decision.

9 Address Changes

10 Respondent shall, at all times, keep the Board informed of Respondent's business and  
11 residence addresses, email address (if available), and telephone number. Changes of such  
12 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
13 circumstances shall a post office box serve as an address of record, except as allowed by Business  
14 and Professions Code section 2021(b).

15 Place of Practice

16 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
17 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
18 facility.

19 License Renewal

20 Respondent shall maintain a current and renewed California physician's and surgeon's  
21 license.

22 Travel or Residence Outside California

23 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
24 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
25 (30) calendar days.

26 In the event Respondent should leave the State of California to reside or to practice  
27 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
28 departure and return.

1           13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
2 available in person upon request for interviews either at Respondent's place of business or at the  
3 probation unit office, with or without prior notice throughout the term of probation.

4           14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
5 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
6 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
7 defined as any period of time Respondent is not practicing medicine in California as defined in  
8 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
9 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
10 time spent in an intensive training program which has been approved by the Board or its designee  
11 shall not be considered non-practice. Practicing medicine in another state of the United States or  
12 Federal jurisdiction while on probation with the medical licensing authority of that state or  
13 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
14 not be considered as a period of non-practice.

15           In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
16 months, Respondent shall successfully complete a clinical training program that meets the criteria  
17 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and  
18 Disciplinary Guidelines" prior to resuming the practice of medicine.

19           Respondent's period of non-practice while on probation shall not exceed two (2) years.

20           Periods of non-practice will not apply to the reduction of the probationary term.

21           Periods of non-practice will relieve Respondent of the responsibility to comply with the  
22 probationary terms and conditions with the exception of this condition and the following terms  
23 and conditions of probation: Obey All Laws; and General Probation Requirements.

24           15. COMPLETION OF PROBATION. Respondent shall comply with all financial  
25 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
26 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
27 be fully restored.

28           16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition

1 of probation is a violation of probation. If Respondent violates probation in any respect, the  
2 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
3 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
4 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
5 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
6 the matter is final.

7 17. LICENSE SURRENDER. Following the effective date of this Decision, if  
8 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
9 the terms and conditions of probation, Respondent may request to surrender his or her license.  
10 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
11 determining whether or not to grant the request, or to take any other action deemed appropriate  
12 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
13 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
14 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
15 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
16 application shall be treated as a petition for reinstatement of a revoked certificate.

17 18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
18 with probation monitoring each and every year of probation, as designated by the Board, which  
19 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
20 California and delivered to the Board or its designee no later than January 31 of each calendar  
21 year.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Nicholas D. Jurkowitz. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

5/28/2014

John M. Peric, M.D.  
Respondent

I have read and fully discussed with Respondent the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

6/2/2014

Nicholas D. Jurkowitz  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated:

6/6/12

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General

TAN N. TRAN  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 17-2010-210312**

KAMALA D. HARRIS  
Attorney General of California  
ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
TAN N. TRAN  
Deputy Attorney General  
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*Attorneys for Complainant*

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 17-2010-210312

JOHN MARIO PERIC, M.D.

2701 W. Alameda, Suite 504  
Burbank, California 91505

Physician's and Surgeon's Certificate A 79419,  
Respondent.

**ACCUSATION**

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California (Board).
2. On or about June 7, 2002, the Board issued Physician's and Surgeon's Certificate number A 79419 to John Mario Peric, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division<sup>1</sup> deems proper.

6. Section 2234 of the Code, states:

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<sup>1</sup> Pursuant to Business and Professions Code section 2002, "Division of Medical Quality" or "Division" shall be deemed to refer to the Medical Board of California.

1       "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
2 violation of, or conspiring to violate any provision of this chapter.

3       "(b) Gross negligence.

4       "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
6 the applicable standard of care shall constitute repeated negligent acts.

7       "(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9       "(2) When the standard of care requires a change in the diagnosis, act, or omission that  
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
11 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
12 applicable standard of care, each departure constitutes a separate and distinct breach of the  
13 standard of care.

14       "(d) Incompetence.

15       "(e) The commission of any act involving dishonesty or corruption which is substantially  
16 related to the qualifications, functions, or duties of a physician and surgeon.

17       "(f) Any action or conduct which would have warranted the denial of a certificate.

18       "(g) The practice of medicine from this state into another state or country without meeting  
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
20 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
21 proposed registration program described in Section 2052.5.

22       "(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
23 participate in an interview scheduled by the mutual agreement of the certificate holder and the  
24 board. This subdivision shall only apply to a certificate holder who is the subject of an  
25 investigation by the board."

26       7.     Section 2241 of the Code states:

1       "(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs,  
2 including prescription controlled substances, to an addict under his or her treatment for a purpose  
3 other than maintenance on, or detoxification from, prescription drugs or controlled substances.

4       "(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or  
5 prescription controlled substances to an addict for purposes of maintenance on, or detoxification  
6 from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections  
7 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this  
8 subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer  
9 dangerous drugs or controlled substances to a person he or she knows or reasonably believes is  
10 using or will use the drugs or substances for a nonmedical purpose.

11       "(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also  
12 be administered or applied by a physician and surgeon, or by a registered nurse acting under his  
13 or her instruction and supervision, under the following circumstances:

14       "(1) Emergency treatment of a patient whose addiction is complicated by the presence of  
15 incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

16       "(2) Treatment of addicts in state-licensed institutions where the patient is kept under  
17 restraint and control, or in city or county jails or state prisons.

18       "(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety  
19 Code.

20       "(d)(1) For purposes of this section and Section 2241.5, "addict" means a person whose  
21 actions are characterized by craving in combination with one or more of the following:

22       "(A) Impaired control over drug use.

23       "(B) Compulsive use.

24       "(C) Continued use despite harm.

25       "(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due  
26 to the inadequate control of pain is not an addict within the meaning of this section or Section  
27 2241.5."

28       8.     Section 2242 of the Code states:

1       "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022  
2 without an appropriate prior examination and a medical indication, constitutes unprofessional  
3 conduct.

4       "(b) No licensee shall be found to have committed unprofessional conduct within the  
5 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of  
6 the following applies:

7       "(1) The licensee was a designated physician and surgeon or podiatrist serving in the  
8 absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs  
9 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return  
10 of his or her practitioner, but in any case no longer than 72 hours.

11       "(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed  
12 vocational nurse in an inpatient facility, and if both of the following conditions exist:

13       "(A) The practitioner had consulted with the registered nurse or licensed vocational nurse  
14 who had reviewed the patient's records.

15       "(B) The practitioner was designated as the practitioner to serve in the absence of the  
16 patient's physician and surgeon or podiatrist, as the case may be.

17       "(3) The licensee was a designated practitioner serving in the absence of the patient's  
18 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized  
19 the patient's records and ordered the renewal of a medically indicated prescription for an amount  
20 not exceeding the original prescription in strength or amount or for more than one refill.

21       "(4) The licensee was acting in accordance with Section 120582 of the Health and Safety  
22 Code."

23       9.     Section 2266 of the Code states: "The failure of a physician and surgeon to maintain  
24 adequate and accurate records relating to the provision of services to their patients constitutes  
25 unprofessional conduct."

26       10.    Section 725 of the Code states:  
27  
28

"(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

"(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

"(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

"(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – Patients H.L., Z.C. and A.L.)

11. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code for the commission of acts or omissions involving gross negligence in the care and treatment of three patients referred to hereafter by their initials: H.L., Z.C., and A.L. The circumstances are as follows:

## Patient H.L.

12. Respondent cared for H.L., an adult female patient, from approximately October 2004 through June 2010. During this time period, Respondent was employed by a medical group.

1 Occasionally, H.L. was seen by other physicians, but during this time, Respondent was H.L.'s  
2 primary care physician. H.L. was treated repeatedly for migraine headaches. There was a referral  
3 to a pain specialist. However, Respondent (during a Board interview) was uncertain about this,  
4 and there was no documentation in his notes whether H.L. actually saw the pain specialist. There  
5 were no consultation reports from a pain specialist in Respondent's records.

6 13. On May 16, 2005, H.L. was advised to obtain her pain medication from one physician  
7 only. Respondent did not obtain a CURES report for H.L. In June 23, 2005, the frequency of  
8 migraines was described as frequently as twice per day. H.L. received multiple prescriptions for  
9 Vicodin. H.L. also received samples or prescriptions for various triptans.

10 14. On January 30, 2006, there was a handwritten note regarding a discussion that H.L.  
11 was pregnant. Per his interview, Respondent recommended that H.L. immediately stop her  
12 Vicodin. Respondent did not contact the obstetrician. H.L. was next seen on April 7, 2006.  
13 There is no documentation in the medical records as to whether the patient was still pregnant.  
14 Respondent claims there may have been a phone call during which pregnancy status was  
15 discussed, but there is no documentation of such a phone call.

16 15. On August 24, 2006, H.L. complained of dizziness. The records do not contain any  
17 further description or elaboration of the dizziness. On November 1, 2006, H.L. complained of  
18 visual problems. However, visual acuity was not documented. There was no indication that H.L.  
19 was ever referred to a neurologist. Respondent also failed to recognize that H.L.'s cigarette  
20 smoking and use of oral contraceptives were additional risk factors in causing dizziness or  
21 migraines.

22 16. H.L. was also diagnosed with hypothyroidism and treated with thyroid medication.  
23 There were several thyroid related laboratory tests performed, but H.L. was never referred to an  
24 endocrinologist.

25 17. H.L. was seen for a follow-up on July 15, 2009 after evaluation in a hospital.  
26 Respondent does not have any of the original emergency room records, nor did he ever speak  
27 directly with the emergency room staff or physician. During his interview, Respondent indicated  
28 that he believes H.L. was treated in the hospital for an arrhythmia. Respondent orders a stress

1 test. However, thyroid function tests are not repeated, and an echocardiogram was not ordered.  
2 A Holter monitor was also not ordered. Respondent does not refer H.L. to a cardiologist. There  
3 is also no evidence that Respondent considered thyroid medication as a possible cause of  
4 palpitations.

5 18. On November 23, 2009, H.L. was evaluated for fatigue. Her iron level was 7. Her  
6 hemoglobin was 11.9. Respondent indicated that he attributed H.L.'s fatigue to anemia, and  
7 thyroid function tests were not repeated.

8 19. Respondent also repeatedly prescribed Ambien to H.L. during 2009. However,  
9 insomnia was not documented during this time period.

10 20. H.L. had been in rehabilitation in the past for Vicodin addiction and was even  
11 hospitalized for an overdose in or about 2009. Respondent had a conversation with H.L.'s mother  
12 or grandmother regarding concerns about H.L.'s addiction. However, this conversation was not  
13 documented in Respondent's records.

14 21. During the time period during which Respondent treated H.L., the recorded history  
15 and physical examination was very scant and frequently lacked pertinent positives and negatives.  
16 Organized medication lists are completely absent. There were no attempts by Respondent to  
17 obtain pertinent outside records.

18 22. Repeatedly during the course of treatment, H.L. was prescribed large amounts of  
19 Vicodin which are potentially hepatotoxic and addictive.<sup>1</sup> There is no evidence of a discussion  
20 regarding these risks.

21 23. The chart notes repeatedly lack any clear statement of objectives and lack the  
22 documentation of Respondent's analysis, judgment, and periodic review of the course of pain  
23 treatment of the patient. There are only minimal attempts to explore other treatment alternatives.

24 24. Respondent's medical records failed to document pertinent positives, negatives,  
25 objectives, informed consent, medications prescribed, and the rationale for treatment.

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26 <sup>1</sup> Patient H.L. informed the Board investigator that she had an addiction to Vicodin for 10  
27 years and often made "bogus" complaints in order to receive Vicodin prescriptions from  
28 Respondent, who rarely examined H.L. and rarely weighed H.L. H.L. also informed the Board  
that she weighed less than 90 pounds toward the end of her treatment with Respondent.

1        25. Taken altogether, Respondent's treatment of H.L. represents an extreme departure  
2 from the standard of care.

3        Patient Z.C.

4        26. Respondent first cared for Z.C. on approximately March 15, 2005. Respondent was  
5 practicing in a group practice at that time, and Z.C. had been seen by other providers in the group  
6 practice prior to that time. However, Z.C. was seen primarily by Respondent after March 15,  
7 2005. Respondent initially treated Z.C. for anxiety, and Xanax was prescribed and refilled.  
8 During the period from September 6, 2008 through July 16, 2010, Z.C. repeatedly received refills  
9 for Vicodin and Alprazolam. During the same time period, Z.C. was seen for two office visits  
10 and two laboratory visits.

11        27. The recorded history and physical examination of Z.C. is very scant and frequently  
12 lacks pertinent positives and negatives. There was no evidence that Respondent presented the  
13 risks, benefits, and therapeutic options so that the patient could make an informed choice  
14 regarding treatment. The chart notes repeatedly lack any clear statement of objectives. There are  
15 only minimal attempts to explore other treatment alternatives.

16        28. In spite of very infrequent visits, there was a pattern of repeated prescriptions,  
17 including those for controlled substances such as Xanax and Lexapro. The chart notes lack  
18 documentation of Respondent's analysis and judgment. It is unclear why Respondent authorized  
19 many of the refills.

20        29. There is no evidence that Respondent actively followed up with Z.C. on consultation  
21 to a pain management specialist. Respondent's medical records for Z.C. did not document  
22 pertinent positives, negatives, objectives, informed consent, medications, and the rationale for  
23 treatment.

24        30. Taken altogether, the management of patient Z.C.'s chronic pain represents an  
25 extreme departure from the standard of care.

26        Patient A.L.

27        31. A.L., a female, became a patient of Respondent in approximately 2008, at which time  
28 she was approximately 14 years old. During the next two years, A.L. was diagnosed with



dysmenorrhea, chronic pelvic pain, migraine headaches, back pain, and urinary tract infection. Approximately one thousand tablets of various controlled substances (e.g. Vicodin ES, Vicoprofen, and Hydrocodone) were prescribed to A.L. during this time period. Tussionex was also prescribed.

32. Diagnostic testing included ultrasound of the abdomen and pelvis. A urine culture done on July 30, 2008 was normal. Urinalysis on July 7, 2008 was negative for bacteria. A.L. was referred to an acupuncturist and a hip specialist. A.L. had been referred to a pediatric gastroenterologist by a prior physician. Immunizations for Hepatitis A and HPV were started by a prior physician. There was no documentation in the chart that A.L. was offered or received a tetanus booster or meningitis vaccine. There was no evidence that A.L. was ever examined without the parent present (for the purpose of discussing any sexual activity by the minor).

33. The recorded history and physical examination of A.L. was very scant and frequently lacks pertinent positives and negatives. Organized medication lists are completely absent.

34. Repeatedly during the course of treatment, A.L. was prescribed amounts of Vicodin that are potentially hepatotoxic and addictive. There was no evidence that a discussion of the risks and benefits of Vicodin were discussed with A.L.

35. The chart notes repeatedly lack any clear statement of objectives. There are only minimal attempts to explore other treatment alternatives. The chart notes also lack documentation of Respondent's analysis and judgment, and rationale for treatment. There was no evidence that Respondent informed A.L. and actively followed up with A.L. regarding the results of the consultation (or noncompliance with consultation).

36. Respondent also did not adequately address A.L.'s pediatric health issues, including those involving growth and development, immunization status, and sexual activity.

37. Taken altogether, the treatment of patient A.L. represents an extreme departure from the standard of care.

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1 45. Although Respondent prescribed Phentermine to C.P. (a stimulant-appetite  
2 suppressant with potential serious side effects), there was no documentation of a weight  
3 management program. C.P.'s weights were not recorded by Respondent.

4 Patient R.B.

5 46. Respondent first cared for R.B. on approximately March 10, 2007. During the next  
6 four years, R.B. was seen by Respondent approximately four times per year. These visits were  
7 for a variety of complaints including neck pain, fever, migraines, and gastrointestinal complaints.  
8 R.B. was also evaluated by a neurologist and spine surgeon. Treatment included physical therapy  
9 and nerve blocks. During his treatment of R.B., Respondent prescribed Ambien, Valium,  
10 Vicodin, and Soma to R.B.

11 47. Respondent's recorded history and physical examination for R.B. was very scant and  
12 lacks pertinent positives and negatives.

13 48. There is no evidence that Respondent discussed the risks, benefits, and therapeutic  
14 options to R.B. so that she could make an informed choice regarding treatment.

15 49. The chart notes lack any clear statement of objectives, nor do they document  
16 Respondent's analysis and judgment.

17 50. The documentation also fails to document Respondent's rationale for treatment and  
18 indication for prescribing controlled substances.

19 THIRD CAUSE FOR DISCIPLINE

20 (Prescribing Without Exam/Indication)

21 51. By reason of the facts and opinions set forth in the First and Second Causes for  
22 Discipline above, Respondent is subject to disciplinary action under section 2242 of the Code, in  
23 that Respondent prescribed dangerous drugs to a patient without an appropriate prior examination  
24 or medical indication therefore.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Excessive Prescribing)

3 52. By reason of the facts and opinions set forth in the First and Second Causes for  
4 Discipline above, Respondent is subject to disciplinary action under section 725 of the Code, in  
5 that Respondent excessively prescribed dangerous drugs to patients.

6 FIFTH CAUSE FOR DISCIPLINE

7 (Inadequate Records)

8 53. By reason of the facts and opinions set forth in the First and Second Causes for  
9 Discipline above, Respondent is subject to disciplinary action under section 2266 of the Code, in  
10 that Respondent failed to maintain adequate and accurate records of his care and treatment of  
11 patients.

12 SIXTH CAUSE FOR DISCIPLINE

13 (Prescribing to an Addict-Patient H.L.)

14 54. Respondent is subject to disciplinary action under section 2241 of the Code in that  
15 Respondent prescribed to H.L. controlled substances, despite H.L. having an addiction to  
16 Vicodin.

17 55. The facts and circumstances in paragraphs 12 through 22 are incorporated by  
18 reference as if set forth in full herein.

19 PRAYER

20 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
21 and that following the hearing, the Medical Board of California issue a decision:

- 22 1. Revoking or suspending Physician's and Surgeon's Certificate Number A79419,  
23 issued to John Mario Peric, M.D.
- 24 2. Revoking, suspending or denying approval of his authority to supervise physician's  
25 assistants, pursuant to section 3527 of the Code;
- 26 3. If placed on probation, ordering him to pay the Board the costs of probation  
27 monitoring;

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1           4.     Taking such other and further action as deemed necessary and proper.

2  
3     DATED: August 13, 2013



KIMBERLY KIRCHMEYER  
Interim Executive Officer  
Medical Board of California  
Department of Consumer Affairs  
State of California

*Complainant*

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